

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRIS NEWMAN,

Plaintiff,

-against-

AFFIRMATION IN
SUPPORT
07 Civ. 5622 (DAB)

METRO-NORTH COMMUTER RAILROAD
and JONES LANG LaSALLE,

Defendants.

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Defendant, Metro-North Commuter Railroad Company (“Metro-North”), moves pursuant to Rule 12 and Rule 55 of the Federal Rules of Civil Procedure for an Order granting a default judgment against defendant Jones Lang LaSalle (“Jones”) for failure to Answer or otherwise appear in this matter.

PRELIMINARY STATEMENT

This matter was commenced by plaintiff pursuant to the Federal Employers’ Liability Act, 45 U.S.C.A. §51. Plaintiff claims to have sustained personal injuries on July 17, 2005 due to the defendants’ negligence.

Upon information and belief, plaintiff filed his Summons and Complaint with the Court on June 13, 2007 and subsequently served both defendants (see copy of plaintiff’s Summons and Complaint annexed hereto and made a part hereof as Exhibit 1).

Defendant Metro-North properly served and filed its Answer to the plaintiff’s Summons and Complaint on June 29, 2007, which included a Cross-Claim against Jones (see copy of Metro-North’s Answer with Cross-Claim annexed hereto and made a part hereof as Exhibit 2).

As of the date of this motion defendant Jones has not served or filed an Answer to the plaintiff's Complaint or to Metro-North's Cross-Claim.

Pursuant to Rule 12 of the Federal Rules of Civil Procedure, defendant Jones had twenty days to serve its Answer to plaintiff's Complaint and also had twenty days to Answer Metro-North's Cross-Claim.

More than twenty days have elapsed since Metro-North filed and served its Answer with Cross-Claim (see Exhibit 2).

Therefore, it is submitted that defendant Jones is now in default as the time for it to serve and file an Answer to Metro-North's Cross-Claim has expired.

Pursuant to Rules 12 and 55 of the Federal Rules of Civil Procedure, and pursuant to Hon. Judge Deborah A. Batts' Order dated October 16, 2007, defendant Metro-North respectfully requests that this motion for a default judgment against defendant Jones be granted in its entirety. Defendant Metro-North also requests permission to enter judgment against defendant Jones for any sum of money awarded to plaintiff in this action.

WHEREFORE, defendant Metro-North Commuter Railroad Company requests that this motion be granted in its entirety and that the Court grant such other and further relief as it may deem just and proper.

Dated: New York, New York
November 15, 2007

Respectfully submitted,

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